IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.48 OF 2004

Hindustan Petroleum Corporation Ltd. ... Petitioner.

vs.

M/s.Associated Construction & others. .... Respondents.

Mr.Minoo Siodia i/b. M/s.Rustomji & Ginwala, for Petitioner.

Mr.Hemant Sethi, for Respondent no.1.

CORAM: D.K.DESHMUKH,J.

DATED: 2nd August,2005

P.C.:-

1. By this petition, the petitioner challenges the Award dated 31st October,2003. By order dated 19th March,2004 the Court has held that the Award does not disclose the reasons why the Arbitrator has made the Award and therefore, direction was issued under Section 34 (4) of the Arbitration and Conciliation Act and the learned Arbitrator was directed to resume the proceedings so that the defect in the Award can be removed. Pursuant to the order, the learned Arbitrator has made the order dated 12.6.2004. Perusal of that order shows that the sole Arbitrator has still not disclosed any reasons while making the

Award. From the Award it appears that the only reason that has been given by the learned Arbitrator is that though the Respondents-claimants were claiming the amount of about Rs.2 crores, he has awarded only about Rs.28 lakhs. That can hardly be the reason for awarding the amount. The learned Arbitrator ought to have disclosed as to how he has arrived at this figure of Rs.27,66,000/- and on what account the amount has been awarded. As the Award does not disclose any reasons, the Award is liable to be set aside. The petition accordingly, succeeds and is allowed. The Award made on 31.10.2003 as also the order dated 12.6.2004 are set aside.

2. A request is made on behalf of the Respondents that again order should be made under sub-section (4) of Section 34 of the Arbitration & Conciliation Act,1996, directing the learned Arbitrator to resume the proceedings for disclosing reasons. Considering the attitude adopted by the learned Arbitrator and the attitude adopted by the respondents of not agreeing to send the matter to new arbitrator when it was put to the respondents, in my opinion, the exercise will be an exercise in futility. Therefore, I do not see that any useful purpose will be served by following such course.

Petition disposed of.